

II. Compliance Examinations — Analysis

relevant information, or to begin correcting problems where appropriate.

The financial institution's directors/trustees are encouraged to participate in regularly scheduled meetings with examiners. However, examination findings should be discussed with senior management prior to discussing with Board members. Also, the EIC should notify the financial institution's management as early as possible of any plans to meet with the Board to present examination findings. This will provide directors/trustees with an opportunity to forego meetings during the examination, if that is their preference.

Review of the Compliance Management System

Based on information gleaned from the discussions with bank management and staff, along with the off-site review and analysis, the examiner should:

- Determine the quality of the institution's compliance management system, including the degree to which management has taken a proactive approach to compliance and whether management can demonstrate its ability to assure compliance with federal consumer laws and regulations.
- Assess whether the compliance management system is effective at facilitating compliance.
- Identify potential deficiencies in the compliance management system and areas of greatest risk and concern.
- Determine where transaction testing is necessary.

The following sections include question lists that are intended to serve only as general guidance for the matters to be addressed during the examiner's dialogue with bank personnel. The sections are organized by elements of the CMS, and should be considered in conjunction with each of the different operational areas of the bank to come to a conclusion about the strength of each element overall. The questions will not apply to every examination scenario and should be customized to each situation. Examiner judgment must be used to determine whether additional pertinent questions should be asked. Because all the facets of a compliance management system are interrelated, certain themes will be repeated in the question lists for multiple sections. Throughout the examination process, the examiner should refer to the FDIC Law, Regulations and Related Acts service set, and any pertinent outstanding FDIC guidance regarding the regulatory or policy requirements of each area under review.

NOTE: The question lists are not to be given to institution management to complete.

Applicable Statutes and Regulations

The compliance management system must adequately address (through oversight, policies and procedures, training,

monitoring, complaint response, and audit) all areas related to the following federal consumer laws, regulations, rules, and policy statements:

Lending

Truth in Lending
Real Estate Settlement Procedures
Homeowners Protection
Credit Practices Rule
Equal Credit Opportunity
Fair Housing
Home Mortgage Disclosure
Fair Credit Reporting
Flood Insurance
Preservation of Consumers' Claims and Defenses
Homeownership Counseling

Deposits

Truth in Savings
Electronic Fund Transfers
Expedited Funds Availability
Interest on Deposits

Other

CRA Technical Requirements
Advertisement of Membership
Electronic Banking
Privacy of Consumer Financial Information
Right to Financial Privacy
Non-Deposit Products
Consumer Leasing
Fair Debt Collection Practices
Branch Closings
Interstate Banking
Children's Online Privacy Protection
Unfair or Deceptive Acts or Practices
Telephone Consumer Protection
Controlling the Assault of Non-Solicited Pornography and Marketing

Evaluating Management Oversight

Material to be reviewed during completion of this section will include, at a minimum:

- *The examiner-determined risk profile of the financial institution as it relates to management oversight;*
- *Prior Reports of Examination, including Compliance, Safety and Soundness, and specialty examinations (with a focus on the management component of each);*
- *Minutes of the meetings of the Board of Directors (BOD), compliance committee, discount committee, etc.;*
- *New, modified or amended compliance-related policies, procedures, and other internal memorandum;*